

OPTION AGREEMENT

This Option Agreement (also referred to hereafter as this "Option" or this "Agreement") is made by and between 1426 First Avenue LLC, a Washington limited liability company (referred to hereafter as "Seller"), whose address is 1426 1st Avenue, Seattle, Washington 98134, and The City of Seattle, a municipal corporation (hereafter referred to as "City"), whose physical address is 700 Fifth Avenue, Suite 5200, Seattle, Washington 98104 and whose mailing address is P.O. Box 94689, Seattle, WA 98124-4689, attention: Calvin W. Goings, Director, Finance and Administrative Services, and is dated and effective as of the date it is executed by both parties.

RECITALS

A. Seller owns the real property ("Property") described on Exhibit A attached hereto and incorporated herein.

B. The City desires an option that can be freely assigned to a third party ("Assignee" or "City's Assignee") so the City's Assignee can purchase the Property in fee simple.

NOW, THEREFORE, the parties agree as follows:

1. Grant of Option. Seller hereby gives and grants to the City the exclusive and freely assignable first right and option to purchase the Property in fee simple, subject to terms and conditions set forth in this Agreement (the "Option"), and the City accepts the Option. The City intends to assign the Option to Assignee. Seller hereby acknowledges the receipt and sufficiency of consideration for the Option, which includes the settlement of *1426 First Avenue LLC v. City of Seattle*, King County Superior Court No. 18-2-21872-1 SEA and King County Superior Court No. 19-2-17369-6 SEA.

2. Term of Option. The Option shall commence upon execution of this Option Agreement by both parties and shall terminate at 5:00 p.m. Pacific Daylight Time on August 31, 2020, unless sooner terminated as provided herein (the time period between the commencement and termination of the Option is hereafter referred to as the "Option Period").

3. Identification of Assignee; Assignment; Purchase Agreement. No later than March 1, 2020, the City shall give written notice to Seller identifying the Assignee, accompanied by a copy of an instrument of assignment by which this Option has been assigned to and accepted by the Assignee ("Assignment Notice"). Promptly following the Assignment Notice, Seller and the Assignee will use diligent efforts to negotiate and agree upon the form of a definitive Purchase Agreement with terms and conditions consistent with the price and other terms and conditions of this Agreement and such other terms and conditions the parties may respectively desire ("Purchase Agreement"). Seller reserves the right to approve the form and substance of the Purchase Agreement in Seller's sole discretion. Upon agreement (if any) between Seller and Assignee, the

agreed form of Purchase Agreement shall become part of this Agreement. If the Assignment Notice is not timely given, or if Seller and Assignee do not agree upon the form of the Purchase Agreement within 30 days after the Assignment Notice, then Seller will have no further obligation to negotiate and will have the right at any time thereafter until an Assignment Notice is given, or until the form of the Purchase Agreement is agreed upon, as the case may be, to terminate this Option by written notice to the Assignee and City. If Seller terminates this Option in accordance with this Section 3, neither Seller nor the City shall have any further obligation to each other with respect to this Option.

4. Terms of Purchase and Sale; Purchase Agreement. The purchase of the Property pursuant to the exercise of the Option shall be subject to the condition that the Property is sold in "as is" condition. The purchase price for the Property pursuant to the exercise of the Option shall be \$41,400,000.00 to be paid by Assignee to Seller in a lump sum at closing, and shall include any and all rights to the "Showbox" name as owned by Seller at the time of the execution of this Option Agreement. Within 5 business days after the Assignee duly exercises the Option in accordance with Section 5, (i) Seller and Assignee shall execute the Purchase Agreement in the form agreed upon pursuant to Section 3, and Assignee shall deposit the Earnest Money in the amount set forth in the agreed-upon Purchase Agreement. If, following exercise of the Option, Assignee (i) does not timely execute the Purchase Agreement, or (ii) does not timely deposit the Earnest Money, then, at any time thereafter until Assignee does both (i) and (ii), Seller will, in addition to its other remedies, have the right but not the obligation to terminate this Option and, if Assignee has executed the Purchase Agreement, the Purchase Agreement. Following agreement on the form of the Purchase Agreement in accordance with Section 3, Assignee will have the right to perform due diligence with respect to the property as provided in the Purchase Agreement.

5. Exercise of Option; Escrow. The City's Assignee (but not the City) shall have the right to exercise the Option at any time following mutual agreement on the form of Purchase Agreement, and on or before expiration of the Option Period (as extended, if applicable) by giving unconditional written notice of exercise ("Exercise Notice") to Seller at the following address:

1426 First Avenue LLC
c/o R.M. Watson Co. LLC
2107 Elliott Avenue, Suite 206
Seattle WA 98121
Attn: Bob Watson
Email: bob@rmwatsonco.com

with a copy to:

Fikso Kretschmer Smith Dixon Ormseth PS
901 5th Avenue, Suite 4000
Seattle, Washington 98164
Attn: Bob Fikso
Email: bob@fkstdo.com

The Exercise Notice may be delivered by (i) US certified mail, return receipt requested, (ii) hand delivery, or (iii) recognized overnight courier, and will be effective upon receipt. Within 2 business days following the Exercise Notice, the Assignee will open escrow with Chicago Title Insurance Company, 701 5th Ave., Suite 2700, Seattle, WA 98101, Attn: Mike Costello (phone: (206) 628-5619; mike.costello@ctt.com) ("Closing Agent") and deliver to Closing Agent a copy of such written notice, the Earnest Money referenced in the Purchase Agreement (payable to Closing

Agent), and duplicate originals of the Purchase Agreement executed by the Assignee. Seller shall contact Closing Agent and arrange a time for execution of the Purchase Agreement as soon as possible.

6. Warranties, Representations and Covenants. Seller represents and warrants that Seller, and the individual executing this Option Agreement on behalf of Seller, has full power and authority to enter into this Option Agreement and to transfer and convey the Property pursuant to the Purchase Agreement (if the Option is duly exercised by the Assignee and the Purchase Agreement is executed by the parties), including such intellectual property rights to the "Showbox" name as may be owned by Seller at the time of the execution of this Option Agreement. Seller further represents and warrants to the City, and following the Assignment Notice, to Assignee that it has not entered into any other agreement that is currently in effect to sell or otherwise transfer all or any interest in the Property, including such intellectual property rights to the "Showbox" name owned by Seller. Seller covenants that it shall not, without the prior written consent of the City or, following the Assignment Notice, Assignee, (a) make, extend or permit any leases, contracts, mortgages or other liens or encumbrances affecting the Property, including such intellectual property rights to the "Showbox" name owned by Seller, that will not be released, terminated, removed or (if a mortgage) subordinated at Closing, or (b) take or permit any action that could reduce the value of the Property or affect its suitability for the City's Assignee's purpose. Seller will be deemed in compliance with (b) above if it maintains the Property substantially in accordance with past practices, damage by casualty or force majeure events excepted. Seller makes no other warranties regarding the Property, title thereto or the condition thereof.

7. Successors. This Option Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto. The City may freely assign the Option at its discretion, by Assignment Notice in accordance with Section 3.

8. Recording. Neither this Option Agreement nor any memorandum hereof shall be recorded, except, at the election of the Assignee, a memorandum of this Option Agreement may be recorded in the King County Recorder's Office only following agreement, if any, on the form of Purchase Agreement in accordance with Section 3. Nothing in the memorandum shall alter any provision of this Agreement.

9. Conditions subsequent. The Assignee's right to exercise the Option is subject to conditions subsequent for the benefit of Seller: (1) that the Landmarks Preservation Board ("LPB") vote by December 18, 2019 to recommend that the City Council impose no controls as the term "controls" is used in the Showbox landmark designation process pursuant to Chapter 25.12 SMC; and (2) that the City Council adopt a designating ordinance imposing no controls for the Showbox no later than 90 days after Condition 1 is met, which ordinance is not appealed. If either of these conditions does not timely occur, Seller will have the right but not the obligation to terminate this Option. The City may extend the deadline for Condition 1 if the City determines it necessary to facilitate an informed LPB decision, to a date no later than February 19, 2020. If either Condition 1 or Condition 2 is not timely satisfied (as Condition 1 may be extended), then Seller may terminate the Option immediately upon notice to Assignee or the City, as the case may be.

10. Zoning amendments. Seller may terminate this Option if the zoning designation for the Property is amended or otherwise changed, or if the Seattle Municipal Code is amended in a manner that, in Seller's sole judgment, diminishes the value or developability of the Property, during the Option Period.

11. Permitting activities and back-up offers. Seller may separately engage in

permitting activities for redevelopment during the Option Period, but may not alter the features designated by the LPB. Seller may also accept back-up offers for the Property during the Option Period, which may become first-position rights to purchase the Property upon the expiration or sooner termination of this Option as provided herein.

12. Progress meetings. Seller and the City shall meet monthly during the Option Period to review the progress of the City's Assignee toward fundraising in support of exercising the Option.

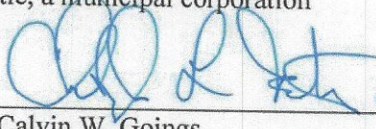
13. Termination of Option. If Seller terminates the Option Agreement in writing due to the failure of the conditions set forth above, or if the Option is not exercised by the expiration of the Option Period, or if the City or, following the Assignment Notice, Assignee voluntarily relinquishes the Option in writing, then Seller may proceed with an open market sale and/or redevelopment of the Property, and the Assignee shall forthwith execute such instrument as may be necessary to remove the memorandum under Section 8 from record title to the Property, if such memorandum has been recorded.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS OPTION AGREEMENT IN
DUPLICATE ORIGINALS.

CITY:

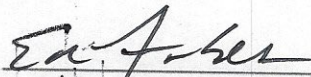
The City of Seattle, a municipal corporation

By:


for Calvin W. Goings, Chief Operating Officer
Director of Finance and Administration

1426: 1426 First Avenue, LLC, a Washington limited liability company

By:


EA Fisher
1st manager

EXHIBITS:

Exhibit A - Legal Description of Property

**EXHIBIT A
OF
OPTION AGREEMENT**

LEGAL DESCRIPTION

Lots 5 and 8 in Block 25 of Addition to the Town of Seattle, as laid out by A.A. Denny (commonly known as A.A. Denny's 3rd Addition to the City of Seattle), as per plat recorded in Volume 1 of Plats, Page 33, records of King County;

Except the Westerly 9 feet thereof condemned for 1st Avenue, as provided by Ordinance No. 1129 of the City of Seattle;

Situate in the City of Seattle, County of King, State of Washington.

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between 1426 First Avenue LLC ("1426") and the City of Seattle ("City") (collectively, "Parties"; singularly, "Party").

I. RECITALS

1. In August 2018, 1426 filed suit in King County Superior Court asserting a Land Use Petition Act ("LUPA") claim and a civil action seeking damages from the City and declaratory judgment arising from the passage of City Ord. 125650, which temporarily extended the boundary of the Pike Place Market Historical District to the property 1426 owns at 1426 First Avenue ("Property"). King Co. Sup. Ct. No. 18-2-21872-1 SEA ("Original Action").

2. In October 2018, the Court dismissed 1426's LUPA and takings claims.

3. In June 2019, the Court denied the City's cross-motion for summary judgment on 1426's remaining claims and granted 1426's cross-motion for summary judgment on its remaining claims (except for its compelled speech, appearance of fairness, and damages claims, which were not part of 1426's motion).

4. City Ord. 125846 took effect in June 2019. It extended the effect of Ord. 125650 for an additional period.

5. In July 2019, 1426 amended and supplemented its complaint to add Ord. 125846 and voluntarily dismissed its compelled speech claim. 1426 also filed a second LUPA action targeting only Ord. 125846. King Co. Sup. Ct. No. 19-2-17369-6 SEA ("Second LUPA").

6. On or about July 17, 2019, the City's Landmarks Preservation Board ("LPB") voted to designate as a City landmark the exterior of the building located on the Property and portions of the building's interior.

7. The Parties enter into this Agreement to resolve the Original Action and Second LUPA without further litigation.

II. AGREEMENT

The Parties agree as follows:

1. Within five business days of the date of this Agreement, the Parties will execute an option agreement substantially in the form attached as Appendix A to this Agreement ("Option Agreement").

2. The effective date of this Agreement ("Effective Date") is the date on which the Parties have fully executed this Agreement and the Option Agreement and have received written notice thereof.

3. Within 30 days of the Effective Date, the Parties will execute, and 1426 will file with the Court, a Stipulation Re Entry of Judgment, in substantially the form of Appendix B to this Agreement, asking the Court to: (a) enter final judgment in the Original Action based on the Court's previous rulings and in favor of 1426; (b) declare that, consistent with the Court's June 21, 2019 Order Denying City of Seattle's Motion for Summary Judgment [Dkt. # 78] and Order Granting Plaintiff's Motion for Partial Summary Judgment [Dkt. # 79], Ordinances 125650 and 125846 are void and of no effect, and (c) order that no damages shall be awarded and each Party shall bear its own costs.

4. Within 30 days of the Effective Date, 1426 will file with the Court a motion under CR 41(a) to voluntarily dismiss the Second LUPA.

5. Within 21 days of the Effective Date, and as a condition to the obligation of 1426 to file the stipulation and dismissals referenced in paragraphs 3 and 4 above, the City will tender \$915,000 ("Settlement Amount") to 1426.

6. Neither party will seek appellate review of any ruling made or order entered in the Original Action or Second LUPA including the judgment and dismissals referenced above.

7. 1426 releases and forever discharges the City, and its employees, officials, officers, and agents, from any and all actions, causes of action, claims or demands for damages, attorney's fees, costs, terms, loss of use, loss of services, expenses, compensation, consequential damage or any other thing whatsoever on account of, or in any way growing out of, any and all known and unknown harm resulting from or related to the subject matter of the Original Action or the Second LUPA, including allegations and claims set forth in the land use petitions and civil complaints filed therein. The release does not extend to rights and claims of either party regarding landmarking or landmark controls regarding the building on the Property or the property itself and all such rights and claims are reserved.

8. The release set forth in paragraph 7 above is a general release pursuant to which 1426 expressly waives and assumes the risk of demands, claims, counterclaims, causes of action and damages which exist as of the Effective Date, but of which 1426 does not know or suspect to exist, and which, if known, would materially affect its decision to enter into this Agreement. 1426 further agrees that it is accepting the Settlement Amount as a complete compromise of matters involving disputed issues of law and fact. 1426 assumes the risk that the facts or law may be other than it believes. The release does not extend to rights and claims of either party regarding landmarking or landmark controls regarding the building on the Property or the Property itself and all such rights and claims are reserved.

9. No Party admits liability.

10. No party is entering this Agreement in reliance on any oral or written promises, inducements, representations, understandings, or agreements other than those contained in this Agreement.

11. 1426 understands that all tax consequences and tax reporting obligations are solely the responsibility of 1426.

12. Each individual signing this Agreement warrants that he or she has the authority to sign the Agreement on behalf of his or her respective Party and thereby to bind that Party.

13. Each of the Parties represents that it has the authority to execute this Agreement and that it has not sold, assigned, transferred, conveyed or otherwise disposed of, by operation of law or otherwise, any of the claims, rights, demands, obligations or causes of action referred to in this Agreement.

14. The laws of the State of Washington shall govern the interpretation and the enforcement of this Agreement. Venue for any judicial proceeding to interpret or enforce this Agreement shall be in King County Superior Court.

15. The Parties agree to cooperate reasonably and fully and execute any and all supplementary documents and to take all additional actions that may be reasonably necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

16. This Agreement contains the entire agreement between the Parties with regard to the matters set forth in it. It supersedes any prior understandings and agreements between the Parties with respect to its subject matter. It shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, and successors and assigns of each.

17. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall be deemed a single document.

FOR 1426 FIRST AVENUE LLC:

FOR THE CITY:

Eric Forbes

Name: ERIC FORBES

Title: IT MANAGER

Date: 10/8/19

Daniel B. Mitchell

Name: Daniel B. Mitchell WSPA #38341

Assistant City Attorney

Date: 10/7/2019